SHEPPARD MULLIN
SHEPPARD MULLIN RICHTER & HAMPTON LLP
ATTORNEYS AT LAW

48th Floor | 333 South Hope Street | Los Angeles, CA 90071-1448
213-620-1780 *office* | 213-620-1398 *fax* | *www.sheppardmullin.com*

FACSIMILE COVER SHEET

*** THIS FACSIMILE TRANSMISSION WILL NOT BE MAILED ****

Date: September 20, 2004

File Number: 0EKM-107186

Total number of pages: (including 1-page cover sheet) 4

If all pages are not received, please call Sheppard Mullin at 213-620-1780, ext. 2155

TO:	Facsimile No.	Telephone No.
U.S. Patent and Trademark Office	(703) 872-9306	

From: Brian D. Martin, Esquire Direct Dial: 213-617-5415

Re: Transmittal of Response to Restriction Requirement Fedex 12-11 p.m.

MESSAGE: Please see attached.

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on September 20, 2004.

Brian D. Martin, Esquire

Response to Restriction Requirement
Applicants: Hyun Jin Kim et al.
Title: GOLF BALLS INCORPORATING PEPTIZERS AND METHOD OF MANUFACTURE
Serial No: 10/662,628 Filed: September 15, 2003
Examiner: Raeann Gordon Group Art Unit: 3711
Our Docket No.: 0EKM-107186 **Date Faxed: 09/20/04**
Client: Taylor Made **Date Due: 10/01/04**
Atty/Sec.: Martin/Kemp

PATENT
0EKM-107186

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/662,628	Confirmation No. 9751
Applicants	:	Hyun Jin Kim et al.	
Filed	:	September 15, 2003	
TC/A.U.	:	3711	
Examiner	:	Raeann Gordon	
Docket No.	:	0EKM-107186	
Customer No.	:	30764	

September 20, 2004

VIA FACSIMILE

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Non-Final Office Action mailed September 1, 2004. On page 2 of the Office Action, the Examiner required a restriction to one of the following inventions:

"I. Claims 1-[50], drawn to a golf ball [including a composition] . . . ;

II. Claims [51]-57, drawn to a method [for manufacturing a golf ball] . . ."

In the Office Action, it appears that the Examiner mistakenly included claim 51 in Group I instead of Group II.

In response to the restriction requirement, Applicants elect the invention of Group I, drawn to a golf ball including a composition, with traverse. In the restriction requirement, the Examiner alleges that the application includes two distinct inventions. Specifically, the Examiner identifies Group I, claims 1-50, which are drawn to a golf ball

including a composition, as allegedly distinct from Group II, claims 51-57, drawn to a method for manufacturing a golf ball. The Examiner alleges that the golf ball including a composition of Group I can be made using a process that is materially different from that claimed in claim 51. Applicants respectfully disagree.

Group II includes independent claim 51 and its dependent claims 52-57. Claim 51 recites a method for manufacturing a golf ball that includes providing the components of a composition, preparing the composition, and forming the composition into the golf ball. Any allegedly different process for manufacturing the golf ball including the composition of claim 1 would fall within the scope of claim 51, and thus, it cannot be considered materially different from the invention recited in claim 1. The claimed product, *i.e.*, the golf ball having the composition, cannot be made by a method other than that recited in claim 51, *i.e.*, a method of manufacturing the golf ball having the composition.

Moreover, Applicants respectfully request the Examiner to reconsider the restriction requirement between Group I and Group II for the reason that there is no additional burden to search and examine the two groups of claims together. Specifically, the claims of Group II describe a process for manufacturing a golf ball including the composition that is the subject of claim 1. The search and examination can proceed on the basis of claim 1. As such, there is no additional burden on the part of the U.S. Patent and Trademark Office to examine claims 1-50 together with claims 51-57. According to MPEP § 803, if the search and examination of patent claims can be made without serious burden, the Examiner must examine the patent claims on their merits, even though the application allegedly includes claims to independent or distinct inventions.

In addition to the above rule, the MPEP also provides for rejoinder of claims subject to a restriction requirement. According to MPEP § 821.04, non-elected process claims can be rejoined after an elected product claims is allowed if the process claims depend upon or otherwise include all of the limitations of the allowable product claim. This rule applies here. Therefore, claims 1-50 should be examined together with claims 51-57.

For the above reasons, Applicants respectfully request the withdrawal of the restriction requirement between Groups I and II.

Now, this application should be in condition for a favorable substantive examination. Early issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By: _____

Brian D. Martin
Registration No. 47, 771

333 South Hope Street, 48th Floor
Los Angeles, California 90071
(213) 620-1780